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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/255,968 02/23/99 ANDERSON

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EXAMINER

TM02/0717

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REAGAN, J

ART UNIT

PAPER NUMBER

2163

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07/17/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

GM

# Office Action Summary

Application No.

09/255,968

Applicant(s)

ANDERSON ET AL.

Examiner

James A. Reagan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on Feb 23, 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 20) ☐ Other:

**DETAILED ACTION**

1. This action is in response to the application filed on February 23, 1999.
2. Claims 1-22 have been examined.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6,9, 18, 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matyas U.S. patent Number 6,102,287 in view of Cadotte U.S. Patent Number 4,345,315.

**Claim 1:**

(1) Matyas teaches presenting a question to a customer at the point of transaction (See column 2, lines 42-44).

Matyas teaches obtaining a response to the question from the customer at the point of transaction (See column 2, lines 45-47).

Matyas teaches recording the customer's response (See column 29, lines 54-56).

Matyas teaches evaluating the response (See column 3, lines 6-9).

(2) Matyas does not teach feedback about the employee's performance.

(3) Cadotte, however in column 1 lines 30-31, speaks to, "complaints about employee knowledge and service."

(4) It would be an obvious advantage to one of ordinary skill in the art at the time of the invention use the electronic payment device to collect survey information about employees as well as products and services. The suggestion or motivation to combine the use of the customer feedback system with the employee's performance would increase customer feedback and allow for a more timely and accurate measure of customer satisfaction with regard to the efficiency of an employee. Therefore, it would have been obvious to combine Matyas with Cadotte to obtain the invention as specified in claim 1.

**Claim 2:**

(1) Matyas discloses the methods described above.

(2) Matyas does not teach linking the question and response with the employee who served the customer.

(3) Cadotte, however in column 1 lines 6-9 speaks to an, "...electronic terminal for anonymously obtaining data on customer satisfaction with the services rendered by a service organization..." and in lines 31-32, "...complaints about employee knowledge and service."

(4) It would be an obvious advantage to one of ordinary skill in the art at the time of the invention use the electronic payment device to collect survey information about employees as well as products and services, and to link together the

service with the service provider, such as an employee selling an item. The suggestion or motivation to combine the customer service evaluation system with a linkage between questions and responses about employees would increase customer feedback and allow for a more timely and accurate measure of customer satisfaction regarding an employee's performance. Therefore, it would have been obvious to combine Matyas with Cadotte to obtain the invention as specified in claim 2.

**Claim 3:**

Matyas teaches that the question is presented to the customer on the display of an electronic payment device (See column 2, lines 42-44).

**Claim 4:**

- (1) Matyas discloses the methods described in claim 1.
- (2) Matyas does not expressly disclose that the question is presented on a monitor and the response is entered on a keyboard.
- (3) Cadotte, however, in column 1, lines 57-58 specifically refers to "terminal and/or keyboard."
- (4) It would be an obvious advantage to one of ordinary skill in the art at the time of the invention to include in any interactive electronic terminal a display device (output) and a keyboard device (input). These are a well-known and widely used input and output devices for effortlessly using an electronic terminal. The suggestion or motivation for combining the use of a keyboard and a monitor with

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an employee evaluation system would provide a simple and efficient means to utilize a computing device and input customer feedback. Therefore, it would have been obvious to combine Matyas with Cadotte to obtain the invention as specified in claim 4.

**Claim 5:**

(1) Matyas discloses the methods described above.

(2) Matyas does not expressly disclose that the questions and responses are made using a printed media.

(3) Cadotte, however, in column 1, lines 22-23 specifically refers to "Customer comment cards."

(4) It would be an obvious advantage to one of ordinary skill in the art at the time of the invention to conduct the question and answer survey using a paper medium. This is a well-known and widely used technique for conducting a survey and evaluating customer satisfaction with products or services. The suggestion or motivation to combine an employee evaluation system with the use of a paper-based medium (questionnaire) would provide another method for conducting the survey and enhance the ability to gather factual data in a simple and efficient manner. Therefore, it would have been obvious to combine Matyas with Cadotte to obtain the invention as specified in claim 5.

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**Claim 6:**

**(1)** Matyas discloses the methods described above.

**(2)** Matyas does not expressly disclose that the question that is presented to the customer is randomly picked from a group of questions.

**(3)** Cadotte, however, in column 56, lines 15-18 specifically refers to "...substituting different permanently recorded inquiries and the responses for the displayed inquiries..."

**(4)** It would be an obvious advantage to one of ordinary skill in the art at the time of the invention to provide a plurality of questions that would randomly be displayed for the consumer to respond to. This is a well-known and widely used technique for conducting a survey and evaluating customer satisfaction with products or services. The suggestion or motivation for combining the employee evaluation system with the technique of using a randomly displayed group of inquiries would provide a means for conducting the survey and enhancing the ability to gather factual data in a simple and efficient manner, and to provide a degree of security and integrity to the process. Therefore, it would have been obvious to combine Matyas with Cadotte to obtain the invention as specified in claim 6.

**Claim 9:**

**(1)** Matyas discloses the methods described above.

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(2) Matyas does not expressly disclose compiling the responses in a computer.

(3) Cadotte, however, in Figure 7 shows a controller consisting of ROM, buffers, registers, and the like.

(4) It would be an obvious advantage to one of ordinary skill in the art at the time of the invention to compile the results on a computer. This is a well-known and widely used device for tabulating and evaluating the results of a customer satisfaction survey. The suggestion or motivation for combining the employee evaluation system and the use of a computer would provide a means for conducting the survey and enhancing the ability to gather factual data in a simple and efficient manner. Therefore, it would have been obvious to combine Matyas with Cadotte to obtain the invention as specified in claim 9.

**Claim 18:**

(1) Matyas teaches recording customer responses (See column 29, lines 54-56).

Also, Matyas teaches transmitting the responses to a computer (See Figure 8).

Furthermore, Matyas teaches evaluating the response (See column 3, lines 6-9).

(2) Matyas does not teach asking transaction specific questions about specific employees. Also, Matyas does not teach evaluating the responses to link specific employees to specific transactions.

(3) Cadotte, however in column 1 lines 30-31, speaks to, "complaints about employee knowledge and service."



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(4) It would be an obvious advantage to one of ordinary skill in the art at the time of the invention to evaluate customer service performance by collecting survey information about employees as well as products and services during a specific transaction. The suggestion or motivation to combine the use of the customer feedback system with the employee's performance would increase customer feedback and allow for a more timely and accurate measure of customer satisfaction with regard to the efficiency of an employee. Therefore, it would have been obvious to combine Matyas with Cadotte to obtain the invention as specified in claim 18.

Furthermore, it would be an obvious advantage to one of ordinary skill in the art at the time of the invention to evaluate the responses to questions and to link together the service with the service provider, such as an employee selling an item. The suggestion or motivation to combine the customer service evaluation system with a linkage between questions and responses about employees would increase customer feedback and allow for a more timely and accurate measure of customer satisfaction regarding an employee's performance. Therefore, it would have been obvious to combine Matyas with Cadotte to obtain the invention as specified in claim 18.

**Claim 19:**

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Matyas in the abstract states, "An electronic payment system in which a buyer purchases a product by sending an electronic payment order to a seller is enhanced to provide product survey information."

**Claim 22:**

(1) Matyas and Cadotte disclose the methods described in claim 18.

(2) Matyas and Cadotte do not expressly disclose that the questions and responses are made using a printed media.

(3) Cadotte, however, in column 1, lines 22-23 specifically refers to "Customer comment cards."

(4) It would be an obvious advantage to one of ordinary skill in the art at the time of the invention to conduct the question and answer survey using a paper medium. This is a well-known and widely used technique for conducting a survey and evaluating customer satisfaction with products or services. The suggestion or motivation to combine a method of evaluating customer service with the use of a paper-based medium (questionnaire) would provide another method for conducting the survey and enhance the ability to gather factual data in a simple and efficient manner. Therefore, it would have been obvious to combine Matyas with Cadotte to obtain the invention as specified in claim 22.

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5. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matyas in view of Cadotte in further view of Fethe U.S. Patent Number 5,926,794.

**As per Claim 7:**

- (1) Matyas and Cadotte disclose the methods described above.
- (2) Matyas and Cadotte do not expressly disclose accumulating scores for questions for individual employees over a defined time period.
- (3) Fethe, however, in Figure 5 does show, "...an individual score profile report generated by the performance appraisal system."
- (4) It would be an obvious advantage to one of ordinary skill in the art at the time of the invention to use the data from the survey to evaluate an employee's performance within a time period. The suggestion or motivation to combine the employee evaluation system and the practice of a time-based evaluation scheme is a well-known and widely used technique that enables an employer to improve the performance of his workers and to track their progress. Therefore, it would have been obvious to combine Matyas and Cadotte with Fethe to obtain the invention as specified in claim 7.

**As per Claim 8:**

- (1) Matyas and Cadotte disclose the methods described above.

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(2) Matyas and Cadotte do not expressly disclose accumulating scores for questions for different measurement levels over a defined time period.

(3) Fethe, however, in Figure 5 does show, "...an individual score profile report generated by the performance appraisal system."

(4) It would be obvious advantages to one of ordinary skill in the art at the time of the invention to combine the scores of a time period to further evaluate the change in an employee's performance. The suggestion or motivation for combining the employee evaluation system and the technique of measuring the various competency levels of an employee over a period of time is a well-known and widely used technique that enables an employer to track the performance of his workers and gauge their performance against others as well as compositely with other stores, restaurants, etc. Therefore, it would have been obvious to combine Matyas and Cadotte with Fethe to obtain the invention as specified in claim 8.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matyas in view of Cadotte in further view of Dowden U.S. Patent Number 5,923,247.

**Claim 10:**

(1) Matyas and Cadotte disclose the methods described above.

(2) Matyas and Cadotte do not disclose expressly communicating an alert signal when a customer service response falls below a threshold.

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(3) Dowden, however, in column 10, lines 13-17 does state, "...the alarm indicator activated if the duration of an unavailability condition exceeds a predetermined value is the same one as that activated if the number of occurrences of an unavailability condition in an analysis period exceeds the threshold value."

(4) It would be an obvious advantage to one of ordinary skill in the art at the time of the invention to use a threshold value to trigger an alarm, with respect to either a rising or falling state. The suggestion or motivation for combining the employee evaluation system and applying a threshold value to customer service responses would allow performance to be monitored and action taken quickly before replies trail off. By monitoring an alarm state as indicated by the survey machine, action may be taken to increase customer response and thereby maintain the usefulness of the survey system. Therefore, it would have been obvious to combine Matyas and Cadotte with Dowden to obtain the invention as specified in claim 10.

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7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matyas in view of Cadotte in further view of Plainfield U.S. Patent Number 5,893,075.

**Claim 11:**

(1) Matyas and Cadotte disclose the methods described above.

(2) Matyas and Cadotte do not expressly disclose offering the customer a reward as an incentive to answer the question.

(3) Plainfield, however, in column 1, line 67 to column 2, line 4 does state, "To stimulate customers to enter data, the system may include means for inducing customers to enter data about themselves into a customer database, such as generating a message on the computer display screen offering an incentive to the customer for entering such data."

(4) It would be an obvious advantage to one of ordinary skill in the art at the time of the invention to offer an incentive to respond to a survey question. The suggestion or motivation for combining the employee evaluation system with offering a reward to participate in a survey is a well-known and widely used practice for increasing the participation by customers or clients who wouldn't ordinarily take the time to contribute. Therefore, it would be obvious to combine Matyas and Cadotte with Plainfield to obtain the invention as specified in claim 11.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Plainfield in view of Cadotte.

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**Claim 13:**

(1) Plainfield discloses the methods described in claim 12.

(2) Plainfield does not expressly disclose to linking responses with the question and the employee who served the customer.

(3) Cadotte, however in column 1 lines 6-9 speaks to an, "...electronic terminal for anonymously obtaining data on customer satisfaction with the services rendered by a service organization..." and in lines 31-32, "...complaints about employee knowledge and service."

(4) It would be an obvious advantage to one of ordinary skill in the art at the time of the invention use the electronic payment device to collect survey information about employees as well as products and services, and to link together the service with the service provider, such as an employee selling an item. The suggestion or motivation to combine the computer software application with a linkage between questions and responses about employees would increase customer feedback and allow for a more timely and accurate measure of customer satisfaction regarding an employee's performance. Therefore, it would have been obvious to combine Matyas with Cadotte to obtain the invention as specified in claim 13.

9. Claims 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plainfield in view of Fethe.

**Claim 14:**

- (1) Plainfield discloses the methods described in claim 12.
- (2) Plainfield does not expressly disclose a capacity to accumulate scores for the individual questions, and to calculate performance indicators.
- (3) Fethe, however, in Figure 5 does show, "...an individual score profile report generated by the performance appraisal system."
- (4) It would be an obvious advantage to one of ordinary skill in the art at the time of the invention to use the data from the survey to evaluate the performance of a service and to display the results. The suggestion or motivation for combining the computer software application with the technique of accumulating employee performance and calculating indices is a well-known and widely used technique that enables an employer to view a composite score of relevant attributes of the employee and therefore improve the performance of his employees and services. Therefore, it would have been obvious to combine Plainfield with Fethe to obtain the invention as specified in claim 14.

**Claim 17:**

- (1) Plainfield discloses the methods described in claim 12.
- (2) Plainfield does not expressly disclose communicating performance indicators to payroll software.



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(3) Fethe, however, in column 2, lines 53-55 does state, "Reports prepared using the information captured by means of the visual image interface are designed to accommodate both visually oriented and numerically oriented users."

(4) It would be an obvious advantage to one of ordinary skill in the art at the time of the invention to supply the results of the performance indicators to management personnel by electronic means, such as through payroll software. The suggestion or motivation for combining the computer software application and the method of supplying this information to a group of users such as the accounting department or the legal department would provide an efficient means for directly affecting employee compensation and providing a personal record of the employee's performance. Therefore, it would be obvious to combine Plainfield with Fethe to obtain the invention as specified in claim 17.

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Plainfield in view of Dowden.

**Claim 15:**

(1) Plainfield discloses the methods described in claim 12.

(2) Plainfield does not expressly disclose communicating a management alert when a response below a threshold has been entered.

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(3) Dowden, however, in column 10, lines 13-17 does state, "...the alarm indicator activated if the duration of an unavailability condition exceeds a predetermined value is the same one as that activated if the number of occurrences of an unavailability condition in an analysis period exceeds the threshold value."

(4) It would be an obvious advantage to one of ordinary skill in the art at the time of the invention to use a threshold value to trigger an alarm, with respect to either a rising or falling state. The suggestion or motivation for combining the computer software application and applying a threshold value to customer service responses would allow performance to be monitored and action taken quickly before replies trail off. By monitoring an alarm state as indicated by the survey machine, immediate action may be taken to respond to negative customer response and thereby improve customer satisfaction. Therefore, it would have been obvious to combine Matyas and Cadotte with Dowden to obtain the invention as specified in claim 15.

11. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matyas and Cadotte in view of Plainfield.

**Claim 20:**

- (1) Matyas and Cadotte discloses the methods described in claim 18.

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(2) Matyas and Cadotte do not expressly disclose that the questions and responses are made via telephone.

(3) Plainfield, however, in column 4, lines 22-23 does state, "...in the form of letters, phone calls, facsimiles, etc..."

(4) It would be an obvious advantage to one of ordinary skill in the art at the time of the invention to conduct the question and answer survey over the telephone. This is a well-known and widely used technique for gathering and evaluating customer satisfaction data. The suggestion or motivation for combining the method of evaluating customer service and the use of a telephone would provide another medium for conducting the survey and enhance the ability to gather factual data. Therefore, it would have been obvious to combine Matyas and Cadotte with Plainfield to obtain the invention as specified in claim 20.

12. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matyas and Cadotte in view of Lutterbach U.S. Patent Number 5,510,828.

**Claim 21:**

(1) Matyas and Cadotte disclose the methods described in claim 18.

(2) Matyas and Cadotte do not expressly disclose that the questions and responses are made via a television with a remote control device.

(3) Lutterbach, however, in column 1, lines 36-40 specifically states, "All of the above problems may not exist with respect to other forms of advertising, or programming, such as on television. However, with any

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form of advertisement direct customer feedback is desirable. Advantageously, a viewer could 'talk back' to a program being viewed."

(4) It would be an obvious advantage to one of ordinary skill in the art at the time of the invention to conduct the question and answer survey over the television, which normally includes a remote control. Interactive television hardware would enable the customer to provide instantaneous feedback. The suggestion or motivation for combining the method of evaluating customer service and using the television would provide another medium for conducting the survey and enhance the ability to gather factual data with a device that is common in most households. Therefore, it would have been obvious to combine Matyas and Cadotte with Lutterbach to obtain the invention as specified in claim 21.

### ***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

14. Claims 12 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Plainfield U.S. Patent Number 5,893,075.

**Claim 12:**

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A computer software application for use in evaluating customer service performance, the software application comprising:

An electronic record comprising a plurality of survey questions about specific transactions and specific employees (See Claim 17);

A database for storing responses to the survey questions (See column 4, lines 8-28);

A user interface to present the questions to the customer and enter responses into the software application (See column 8, lines 5-9);

A control program to present at least one of the survey questions to customers, and to accumulate responses to the question (See column 7, lines 66 to column 8, line 22);

The software residing in a digital medium (See column 9, line 18).

**Claim 16:**

Column 1, line 67 to column 2, line 4

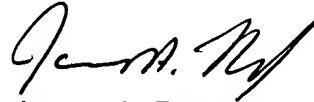
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Reagan whose telephone number is 703.306.9131. The examiner can normally be reached on 8:00a - 5:00p M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703.305.9643. The fax phone numbers for the organization where this application or proceeding is

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assigned are 703.308.1396 for regular communications and 703.308.1396 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.305.3900.



James A. Reagan  
Examiner  
Art Unit 2163

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July 15, 2001



TARIQ R. HAFIZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100